

**IN THE UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**IN RE:**

**MARIA GABRIELA STOIBER,  
  
Debtors.**

**CASE NO. 11-31714  
  
CHAPTER 11**

**AMENDED MOTION TO VALUE PROPERTY PURSUANT TO 11 U.S.C. §506 OF  
PROPERTY LOCATED AT 1014 MYRTLE AVENUE, EL PASO, TEXAS**

**THIS PLEADING REQUESTS RELIEF WHICH MAY BE ADVERSE TO  
YOUR INTEREST**

**IF NO TIMELY RESPONSE IS FILED WITHIN TWENTY-ONE (21) DAYS  
FROM THE DATE OF SERVICE, THE RELIEF REQUESTED HEREIN  
MAY BE GRANTED WITHOUT A HEARING BEING HELD**

**A TIMELY RESPONSE IS NECESSARY FOR A HEARING TO BE HELD:**

**TO THE HONORABLE H. CHRISTOPHER MOTT, UNITED STATES BANKRUPTCY  
JUDGE:**

**COMES NOW**, Maria Gabriela Stoiber, Debtor by and through Sidney J. Diamond of Diamond Law, her attorney and files this Amended Motion to Value Property Pursuant to 11 U.S.C. §506 of Property Located at 1014 Myrtle Avenue, El Paso, Texas on Negative Notice and would respectfully show the Court as follows:

1. The Debtor filed a Petition for Relief under Chapter 11 of Title 11 on September 2, 2011, in the above captioned case.
2. The Debtor has continued in possession of her property and, as Debtor-in-Possession is now operating her business and managing property pursuant to the provisions of 11 USC § 1101.
3. The Debtor is the owner of the real property and all improvements located thereon commonly known as 1014 Myrtle Avenue, El Paso, Texas, the "Property". The property currently has a fair market value of Three Hundred Twenty Thousand and 00/100 Dollars (\$320,000.00), based on the value established by the Central Appraisal District and as indicated in the Unsworn Declaration Under Penalty of Perjury attached hereto as Exhibit "A".

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4. The City of El Paso has a non-consensual first lien on the Property, by operation of law for Ad Valorem Taxes in the amount, as of the filing date of Eight Thousand Six Hundred Sixty Seven and 02/100 Dollars (\$8,667.02), which claim is accruing interest at 12%. A copy of which claim is attached hereto as Exhibit "B" and incorporated herein by reference as though fully set forth in words and numbers.

5. The City of El Paso is the holder of a note as of the date of filing, in the amount of Five Hundred Thirty Nine Thousand Four Hundred Four and 85/100 Dollars (\$539,404.85), which note is secured by a lien on the Property made the basis of this Motion. That note is accruing interest at the rate of 3%. A copy of which note is attached hereto as Exhibit "C" and incorporated herein by reference as though fully set forth in words and numbers.

6. The Small Business Administration City of El Paso is the holder of a note as of the date of filing, in the amount of Eighty Seven Thousand Thirty Two and 17/100 Dollars (\$87,032.17), which note is secured by a lien on the Property made the basis of this Motion. That note is accruing interest at the rate of 4%. A copy of which claim is attached hereto as Exhibit "D" and incorporated herein by reference as though fully set forth in words and numbers.

7. The first lien of the City of El Paso in the amount of Eight Thousand Six Hundred Sixty Seven and 02/100 Dollars (\$8,667.02) should be deemed secured and paid in full. The City of El Paso's second lien claim should be bifurcated as a secured claim in the amount of Three Hundred Eleven Thousand Three Hundred Thirty Two and 98/100 Dollars (\$311,332.98) and an unsecured claim in the amount of Two Hundred Twenty Eight Thousand Seventy-One and 87/100 Dollars (\$228,071.87). The third lien of the Small Business Administration in the amount of Eighty Seven Thousand Thirty Two and 17/100 Dollars (\$87,032.17) should be deemed unsecured.

**WHEREFORE**, the Debtor prays:

1. That after the expiration of twenty-one (21) days, and in the event no response is filed, the Court enter its order determining that the first lien claim of the City of El Paso in the amount of Eight Thousand Six Hundred Sixty Seven and 02/100 Dollars (\$8,667.02) should be deemed as

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secured and paid in full.

2. That the City of El Paso's second lien claim should be bifurcated as a secured claim in the amount of Three Hundred Eleven Thousand Three Hundred Thirty Two and 98/100 Dollars (\$311,332.98) and an unsecured claim in the amount of Two Hundred Twenty Eight Thousand Seventy-One and 87/100 Dollars (\$228,071.87) for the property located on 1014 Myrtle Avenue.

3. The third lien of the Small Business Administration in the amount of Eighty Seven Thousand Thirty Two and 17/100 Dollars (\$87,032.17) should be deemed unsecured.

4. That if a response is timely filed that the Court set this matter for hearing;

5. That upon final hearing, the Court enter its order as set forth in paragraphs 1, 2 and 3 above; and,

6. For such other and further relief as the Debtor may show herself to be justly entitled.

**DATED:** May 31, 2012.

Respectfully submitted,

DIAMOND LAW,

BY: /s/ Sidney J. Diamond  
Sidney J. Diamond  
Attorney for Debtors  
SBN: 5803000  
3800 N. Mesa, Suite B-3  
El Paso, Texas 79902  
(915) 532-3327 Office  
(915) 532-3355 Fax  
sidney@sidneydiamond.com

**CERTIFICATE OF SERVICE**

I, Sidney J. Diamond, do hereby certify that on June 1, 2012, a true and correct copy of the foregoing Amended Motion to Value Property Pursuant to 11 U.S.C. § 506 as to Property Located at 1014 Myrtle Avenue, El Paso, Texas was served, via electronic means as listed on the Court's ECF noticing system or by depositing the same in the United States Mail, properly addressed and postage prepaid, to the following parties:

**THE DEBTOR:**

Maria Gabriela Stoiber  
12532 Tierra China  
El Paso, Texas 79938

**THE UNITED STATES TRUSTEE:**

Kevin Epstein  
P.O. Box 1539  
San Antonio, TX 78295-1539  
**VIA EMAIL: Kevin.M.Epstein@usdoj.gov**

**AFFECTED PARTIES:**

City of El Paso  
PO Box 2992  
El Paso, TX 79999-2992

**ALL CREDITORS AND PARTIES IN  
INTEREST AS SHOWN ON THE  
ATTACHED EXHIBIT "E":**

City of El Paso      **VIA EMAIL: sanantonio.bankruptcy@publicans.com**  
c/o David G. Aelvoet  
Linebarger, Goggan, Blair & Sampson, LLP  
711 Navarro, Suite 300  
San Antonio, TX 78205-1749

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/s/ Sidney J. Diamond  
Sidney J. Diamond